IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.4618 of 1990

1. Ram Dular Harijan, S/o – Chetan Harijan
2. Ganauri Harijan S/o – Rupan Harijan
3. Bhujangi Harijan S/o –Kukru Harijan
1. Atwari Harijan S/o – Chetan Harijan
2. Chunchun Harijan
3. Arjun Harijan

Both sons of Fekan Harijan, All resident of village Godra.

4. Mahesh Harijan S/o – Narayan Harijan
5. Ramcharitar Harijan S/o – Narayan Harijan
6. Lacchu Harijan S/o – Boakran Harijan
   No. 7 to 9 resident of village Tarchha.
7. Sobesh Harijan S/o – Chetan Harijan
8. Mitan Harijan S/o – Bhutku Harijan
9. Surju Harijan S/o – Kuku Harijan
10. Sohan Harijan S/o – Fadul Harijan
11. Sabir Harijan S/o – Budhu Harijan
12. Banarsi Tanti S/o – Bindeshwari Tanti
13. Rajendra Tanti S/o – Modre Tanti
14. Baiju Tanti S/o – Chaklu Tanti
15. Budhu Mandal S/o – Hajari Mandal
16. Jitan Harijan S/o – Bhulki Harijan
    No. 1 to 12 resident of village Godra.
    No. 13 to 14 resident of village Tarchha.
    No. 15 to 18 resident of village Kashimpur
    No. 19 resident of village Godra.
17. Jagdish Harijan S/o – Rekan Harijan
18. Bhuwneshwar Harijan S/o – Fekan Harijan
    Resident of village Godra.
19. Baisakhi Harijan S/o – Sumru Harijan
20. Bisan Harijan S/o – Molay Harijan
21. Sanichar Harijan S/o – Karu Harijan
    No. 22 to 25 resident of Tarchha.
22. Togi Tanti S/o – Daulat Tanti
    Resident of village Kasimpur, All P.S. Gagdishpur, District – Bhagalpur.

---------- Petitioners.

Versus

1. The Collector, Bhagalpur
2. The Deputy Collector, Land Reforms, Bhagalpur
3. Shubhashish Ghosh S/o – Anil Kumar Ghosh
4. Shiva Kumar Ghosh S/o – Gangadhar Ghosh
5. Bijendra Nath Ghosh S/o – Baijnath Ghosh
6. Shri Lal Kumar Ghosh S/o – Anandi Kumar Ghosh
   Respondents nos. 3 to 6 resident of Bari Khajarpur, P.S. – Kotwali, District – Bhagalpur.

--------- Respondents.

For the petitioners : Mr. Amrendra Kr. Sinha, Advocate
For the State : Mr. Anil Kr. Jha, G.A. – 2

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12 07.11.2008 Heard learned counsel for the petitioners and learned counsel for the State.

The writ application is directed against a common order dated 26.04.1988, passed by the Collector, Bhagalpur in Bataidar Appeal No. 3/88-89. The appeal was filed against an earlier order dated 09.02.1988, passed by the Deputy Collector, Land Reforms, who rejected the claim of these petitioners under section 48E of the B.T. Act. On the ground that the landlords were protected tenants under sections 48C of the B.T. Act. Learned counsel for the petitioners submits that by a cryptic order and on the ground that the appeals were time barred, the Collector had passed the impugned order dated 26.04.1988, and this was the reason for filing the present writ application.

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If an appeal is time barred then the competent authority is not required to record a detailed reasoning because rejecting an appeal on the ground of limitation is a technical rejection authorized under law. The initial order against which the appeal was filed is dated 09.02.1988, time to file appeal is 30 days, but there is nothing indicated by the petitioners in the writ application as to how much time was utilized in obtaining the order and whether the Collector was wrong in holding that the appeal was time barred.

In absence of any clear and cogent pleadings, it is difficult for the court to hold that the competent authority has erred in rejecting the appeals on the ground of limitation.

In view of the above the court is not inclined to interfere with the order impugned since a time barred appeal does create a substantive right in favour of the other party.

The writ application has no merit and it is dismissed.

Rajeev/

(Ajay Kumar Tripathi, J.)

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